

# 2013 Housing Iowa Conference

THE SAFE ACT  
Federal & State

# Introduction

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# Introduction

- Background: with Iowa Division of Banking since 1997.
- My chief responsibility is regulatory oversight of mortgage bankers/brokers, mortgage loan originators, and closing agents. In that role I am responsible for establishing the policies and procedures for the licensing and examination of mortgage companies and closings agents; and the testing, pre-license education, licensing, and continuing education of mortgage loan originators.
- Responsible for establishing the IDOB's participation in the NMLS&R.
- Attended several CSBS, NACCA, and AARMR examiner schools and has certification from the Education Foundation of State Bank Supervisors as a Certified Mortgage Examiner.
- Current Chairman of Mortgage Testing and Education Board

# Iowa Division of Banking

- Mortgage Bankers
  - Current 271 (last year 231)
  - High 496 12/31/05
  - Low 218 12/31/10
- Mortgage Brokers
  - Current 43 (last year 42)
  - High 328 6/30/06
  - Low 41 6/30/11
- Closing Agents
  - Current 71 (last year 72)
  - High 75 12/31/12

# Iowa Division of Banking

- Mortgage Loan Originators
  - Current 2,650 (last year 1,514)
  - High 5,581 12/31/07
  - Low 1,259 1/31/12
  - New Apps average in 2012 – 45.17/month
  - New Apps average in 2013 – 170.43/month

# Goals for Today

- Overview of Federal & State SAFE ACT
- Update regarding Loan Originator License
  - nonbanks
- Registration – Banks

# Why Comply?

Avoid trouble!

- Non compliance may cause regulators to issue fines or revoke licenses.
- Non compliance may result in additional examinations or investigations.
- Non compliance may lead to civil litigation.
- Non compliance may cause loss of reputation.

# Secure and Fair Enforcement for Mortgage Lending Act of 2008 (SAFE Act)

- The SAFE Act is intended to
  - Improve the accountability and tracking of residential mortgage loan originators
  - Provide protection for consumers
  - Reduce fraud and
  - Provide consumer with information regarding MLOs
- Institutions are expected to implement appropriate policies and procedures
  - Board Approved and on the intranet



# Federal SAFE ACT

- Requires each institution to register with the Nationwide Mortgage Licensing System & Registry (NMLS)
- Requires individual mortgage loan originators (MLOs) to register with the Nationwide Mortgage Licensing System & Registry (NMLS)
- Must register within 180 days of the date the FDIC provides public notice of the availability of the registry. (7/29/2011)

# Federal SAFE Act – System Administrator

- Institutions will need to request an account and establish Account Administrators to handle the administrative processes.
  - The NMLS Federal Registry requires each federally chartered or insured institution to identify at least two Account Administrators
- Administrator should not be an MLO
  - HR/Compliance is recommended

# Federal SAFE Act – Identification of MLO

- An MLO means an individual who:
  - 1) takes a residential mortgage loan application; **AND**
  - 2) offers or negotiates terms of a residential mortgage loan for compensation or gain.
- A residential mortgage loan means any loan primarily for personal, family, or household use that is secured by a mortgage on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling, including manufactured housing and condominiums
- Includes refinancing, reverse mortgages, home equity lines of credit, and other first and second lien loans that meet the definition of a residential mortgage loan

# Federal SAFE Act

- For example, offering or negotiating terms of a loan includes
  - 1) Presenting a loan offer either verbally or in writing, including but not limited to, providing a TIL disclosure, even if the offer is conditional, further verification is necessary, or other individuals must complete the loan process
  - 2) Responding to a consumer's request for a lower rate or points by presenting the consumer either verbally or in writing a revised loan offer that includes a lower interest rate or lower points than originally offered

# Federal SAFE Act - Registration

- An employee who acts as a MLO is required to register with the Registry, obtain a unique identifier, and maintain his or her registration
- Employees must complete an initial registration with the Registry within 180 days from the date the FDIC provides in a public notice that the Registry is accepting registrations, and are allowed to continue to originate residential mortgage loans during this period

# Federal SAFE Act - Registration

- An institution must require its employees to register and maintain this registration, and are not permitted to allow their employees to act as an MLO unless registered with the Registry
- After the 180 day period expires, existing and newly hired employees **are prohibited from originating residential mortgage loans without first registering**
- A MLO's failure to register does not affect the validity or enforceability of any mortgage loan contract made by the institution that employs the originator

# Federal SAFE Act – Registration Renewal

- A registered MLO must renew his or her registration with the Registry annually during November 1<sup>st</sup> through December 31st of each year
- Failure to renew prohibits the employee from acting as a MLO and the registration becomes inactive until such time the registration requirements are met, which can be done at any time during the year
- Annual registration renewal requirements do not apply if a MLO just completed registration less than six months prior to December 31st

# Federal SAFE Act – Registration Updates

- Registration must be updated within 30 days of the occurrence of the following events:
  - a change in the employee's name
  - the registrant ceases to be an employee of the institution
  - any of the employee's responses to the information required for registration become inaccurate
- A previously registered employee is required to maintain his or her registration unless the employee is no longer a MLO, even if, in any subsequent 12 month period, the employee originates fewer mortgage loans than the number specified in the de minimis exception provision



# Federal SAFE Act – How do I register?

- For Account Administrators:
  - Go to the NMLS site
    - [www.mortgage.nationwidelicensingsystem.org/](http://www.mortgage.nationwidelicensingsystem.org/)
  - Click "*Getting Started*" for your company or institution
  - Choose "*Federal Registration*"
  - Follow the steps detailed for you on the "*Getting Started*" page
- For MLOs:
  - Wait for instructions from your Account Administrator(s)

# Federal SAFE Act – Examination Requirements

- Confirm the institution maintains a list of the registration numbers of its MLOs, and provides the registration number to any loan applicant that requests it.
- In satisfying this requirement, a institution may choose to:
  - direct consumers to a listing of registered MLOs and their registration numbers on its website;
  - post this information in a prominently publicly accessible area, such as a lobby or lending area notice; and/or
  - establish a process that bank personnel provide the registration number to consumers upon request.

# Federal SAFE Act – Examination Requirements

- Confirm that a registered MLO provides his or her unique identifier to a consumer
  - upon request;
  - before acting as a MLO; and
  - through the originator's initial written communication with a consumer, if any, whether on paper or electronically.

# Federal SAFE Act - Links

- NMLS Consumer Access
  - <http://www.nmlsconsumeraccess.org/>
- NMLS Getting Started
  - <http://mortgage.nationwidelicensingsystem.org/slr/resources/Pages/GettingStartedStateMLO.aspx>
- NMLS Resource Center
  - <http://mortgage.nationwidelicensingsystem.org/Pages/Default.aspx>
- NMLS Call Center
  - 240-386-4444

# SF 355 (Chapter 535D)

- Effective January 1, 2009, Senate File 355 brings the mortgage licensing laws of the State of Iowa into compliance with the federal *Secure and Fair Enforcement for Mortgage Lending Act of 2008* ("SAFE Act"). The SAFE Act requires all states to pass mortgage licensing laws and regulations that meet or exceed certain national standards established in the act.
- Removed Individual Registration requirements from Chapter 535B
- Created a new Chapter titled Iowa Code Chapter 535D "Iowa Secure and Fair Enforcement for Mortgage Licensing Act"

# SF 355 (Chapter 535D)

- Mortgage Loan Originator defined as “an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan.
- Does not include "Clerical or support duties" defined as “subsequent to the receipt of a residential mortgage loan application, the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and communicating with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.” As long as the person is an agent of a licensee!

# SF 355 (Chapter 535D)

Under Senate File 355, each individual defined as a mortgage loan originator (MLO) must meet licensing requirements that are in compliance with the SAFE Act. To comply with the new law, all MLOs must do the following:

- File a Form MU4 through the Nationwide Mortgage Licensing System ("NMLS").
- Pass the SAFE Mortgage Loan Originator Test, which is comprised of two components: a National Component and a State Component. MLOs must pass each Component with a score of 75% or higher.
- Complete 20 hours of pre-licensure education
- Authorize a fingerprint background check through NMLS for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation
- Provide authorization to obtain a credit report through NMLS. Iowa Division of Banking will review the credit report provided as part of its determination of financial responsibility for each mortgage loan originator.

# SF 355 (Chapter 535D)

- Fees to apply for the SAFE MLO license include: \$50 license fee, \$39 for the background check, an NMLS processing fee of \$30, and \$13 fee to obtain a credit report. Additional fees for pre-licensing tests and pre-licensing education are charged and collected outside the NMLS.



# SF 355 (Chapter 535D)

- Individuals seeking to renew their SAFE MLO license will need to complete 8 hours of continuing education ("CE").
- The CE will need to be NMLS-approved continuing education. The CE must include 3 hours of Federal law and regulations; 2 hours of ethics that shall include instruction on fraud, consumer protection, and fair lending issues; and 2 hours of training related to lending standards for the nontraditional mortgage product market.

# SF 355 (Chapter 535D)

- Every SAFE MLO must be covered under a surety bond that reflects the dollar amount of loans originated on an annual basis. Companies sponsoring state-licensed SAFE MLOs must provide evidence of a surety bond meeting Iowa requirements as part of their company license.
- The bond amount required to be filed and maintained by the applicant shall be set and adjusted as necessary annually in accordance with the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:
  - Loan Amount \$0 – 100,000,000 Bond \$100,000
  - Loan Amounts Over \$100,000,000 Bond \$150,000

# SF 355 (Chapter 535D)

- Senate File 355 requires that every company employing state-licensed MLOs must file a NMLS Mortgage Call Report through the NMLS. The NMLS Mortgage Call Report is a statement of condition on the company and its operations including financial statements and production activity volumes reported on a per state basis.

# SF 355 (Chapter 535D)

## Conditions of License

- Applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction
- Not been convicted of, or plead guilty or no contest to, a felony during the 7-year period preceding the date of the application; or at any time preceding the date of the application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering

# SF 355 (Chapter 535D)

## Conditions of License (continued)

- The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of this chapter. For purposes of this subsection, a person has shown that the person is not financially responsible when the person has shown a disregard in the management of their own financial condition. The superintendent shall not deny a license on the sole basis of an applicant's credit score. A determination that an individual has not shown financial responsibility may include but not be limited to current outstanding judgments, except judgments solely as a result of medical expenses; current outstanding tax liens or other government liens or filings; foreclosures within the past three years; or a pattern of seriously delinquent accounts within the past three years.

# License MLOs v. Registered MLOs

- Per SAFE Act
  - Testing
  - Pre-license Education
  - Credit Report
- Criminal Background Checks
  - Everyone has to submit fingerprints
  - Difference in felony standards

# Mobility of MLOs

- System will be designed to allow MLOs to move between industries
- SAFE Act exempts “registered” MLOs from State-licensing
  - NMLS still allows for a registered MLO to take and record education and test results

# Questions on anything

- Clarification on anything we covered.
- Questions on stuff we didn't cover.



# Action plan for compliance

Use reference materials

Keep a folder for compliance issues.

Seek help for questions you cannot answer with your own research: IBA, IMBA, Iowa Division of Banking, Federal Reserve Board, Department of Housing and Urban Development.

Periodic review of practices.